

Notice of Allowability

Application No.

10/630,235

Examiner

ANN Y. LAM

Applicant(s)

RATNER ET AL.

Art Unit

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/3/08.
2. ☒ The allowed claim(s) is/are 1-9 and 11-47.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20080719</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with L. Rhys Lawson on July 18, 2008.

The application has been amended as follows:

In claim 16, line 9, delete "and".

In claim 16, line 12, after "material", add

-- ; and (c) the temperature-responsive material is deposited by plasma deposition at a first high deposition power and at least one second low deposition power, and has a first layer that crosslinks and adheres to a surface at the first high deposition power and at least one second layer that forms at the at least one second low deposition power--

In claim 26, line 8, delete "and".

In claim 26, line 9, after "surface", add

--and wherein the temperature-responsive layer is deposited by plasma deposition at a first high deposition power and at least one second low deposition power, and comprises a temperature-responsive material having a first layer that

Art Unit: 1641

crosslinks and adheres to the second surface at the first high deposition power and at least one second layer that forms at the at least one second low deposition that can exist in a first state that binds molecules or living cells, and can exist in a second state that binds substantially less molecules or living cells than the first state, and wherein the temperature-responsive material is reversibly convertible to the first state from the second state in response to an effective amount of thermal energy--

In claim 31, line 6, after the comma, add

--, wherein the temperature-responsive material is deposited by plasma deposition at a first high deposition power and at least one second low deposition power, and has a first layer that crosslinks and adheres to a surface at the first high deposition power and at least one second layer that forms at the at least one second low deposition power,--.

In claim 38, line 7, after the comma, add

--wherein the temperature-responsive material is deposited by plasma deposition at a first high deposition power and at least one second low deposition power, and has a first layer that crosslinks and adheres to a surface at the first high deposition power and at least one second layer that forms at the at least one second low deposition power,--.

Election/Restrictions

Claims 1-9 and 11-15 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 16-47 (as amended by the examiner's amendment above), directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on June 30, 2006 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Allowable Subject Matter

Claims 1-9 and 11-47 are allowed.

The following is an examiner's statement of reasons for allowance: the prior art does not teach or suggest a temperature-responsive layer deposited by plasma deposition at a first high deposition power and at least one second low deposition power, and comprises a temperature-responsive material having a first layer that crosslinks and adheres to the second surface at the first high deposition power and at least one second layer that forms at the at least one second low deposition power. It is understood that the plasma deposition at the respective high and low deposition powers form different products, and such products formed as layers are not disclosed or suggested by the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANN Y. LAM whose telephone number is (571)272-0822. The examiner can normally be reached on Mon.-Fri. 10-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1641

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ann Y. Lam/
Primary Examiner, Art Unit 1641